

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Notice of Termination**

Pursuant to the authority of Iowa Code sections 455B.173, 459.103 and 459A.104, the Environmental Protection Commission terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on December 15, 2010, as **ARC 9274B**, which proposed to amend Chapter 60, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 63, “Monitoring, Analytical and Reporting Requirements,” Chapter 64, “Wastewater Construction and Operation Permits,” and Chapter 65, “Animal Feeding Operations,” Iowa Administrative Code.

As required by the Iowa General Assembly pursuant to Iowa Code subsection 459.311(2), the Commission proposed amendments to update the rules regarding confinement feeding operations to conform to the 2008 federal regulations pertaining to National Pollutant Discharge Elimination System (NPDES) permits. In the statutory provision, the Iowa General Assembly required that the rules “shall be no more stringent than” the federal regulations regarding NPDES requirements for concentrated animal feeding operations (CAFOs). In addition, the proposed amendments included revisions to open feedlot rules and other NPDES-related rules to conform to the 2008 federal regulations regarding NPDES requirements and included several “housekeeping” type corrections and updates.

On March 15, 2011, the U.S. Court of Appeals for the 5th Circuit vacated portions of the 2008 federal regulations. Specifically, the court vacated those provisions of the 2008 federal regulations that (1) required CAFOs that propose to discharge to apply for an NPDES permit and (2) created liability for failure to apply for an NPDES permit. Future amendments to the 2008 federal regulations to conform to the 5th Circuit decision will not occur by July 10, 2011, which is when the Commission’s 180-day time limit for completion of rule making will be reached. The Commission will commence rule making again when there is final resolution at the federal level of the currently vacated portions of the 2008 federal regulations. Only at that time can the Commission be assured that its rules are “no more stringent than” the federal CAFO regulations. Therefore, rule making for **ARC 9274B** is terminated.